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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,090	02/12/2002	Chester J. Barszcz	UHGI:002 (UHGI:106) 10109	6708
7590 04/21/2006			EXAMINER	
Erik R. Nordstrom Fulbright & Jaworski L.L.P. Suite 2400 600 Congress Avenue Austin, TX 78701			NGUYEN, MINH DIEU T	
			ART UNIT	PAPER NUMBER
			2137	
DATE MAILED: 04/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/074,090

Applicant(s)

BARSZCZ, CHESTER J.

Examiner

Minh Dieu Nguyen

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication dated February 6, 2006 with the amendments to claims 1, 11 and 18.
2. Claims 1-20 are pending.

### ***Response to Arguments***

3. Applicant's arguments filed February 6, 2006 have been fully considered but they are not persuasive. The applicant argues Silberstein fails to teach unencrypted raw test response and unencrypted test result data within the computer device is not accessible to a user of the computer device, in particular, the network firewall in Silberstein does not preclude authorized users from accessing the computer. The examiner contends Silberstein discloses installing the network firewall to keep out outsiders/hackers, inherently prevent outsiders/hackers (i.e. (unauthorized) users) from gaining access to the computer system.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-7, 9-13, 15, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silberstein (6,856,913).

a) As to claims 1 and 11, Silberstein discloses a system and method for evaluating the efficacy of therapeutic intervention in a patient by assessment of different steady state visually evoked potentials (col. 1, lines 7-9) comprising presenting a test to a test subject through a computer device (col. 4, lines 12-18); receiving from the test subject raw test response based on the subject's response to the presented test ((Fig. 3A; col. 6, lines 2-7); processing the raw data to generate test result data (col. 6, lines 21-25); encrypting the test result data to generate encrypted test result data (col. 6, lines 24-25); making the encrypted test result data available to a user (col. 8, lines 32-34).

Silberstein does not explicitly disclose unencrypted raw test response and unencrypted test result data within the computer device is not accessible to a user of the computer device. However, he discloses security issues of reducing the risks of malicious hacking in test data (col. 8, lines 29-31) and encrypting test data (addressed above).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of preventing access to unencrypted test data in the system of Silberstein so as to strengthen security of information data.

b) As to claim 2, Silberstein discloses utilizing a computer to present a test subject with a test through a computer device. However Silberstein does not explicitly disclose the computer is a laptop computer.

The examiner takes official notice that use of a laptop computer for presenting a test subject with a test through a computer device is quite well-known in the high-tech industry.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of laptop computer for presenting a test subject with a test in the system of Silberstein so as to provide a convenient, portable means of communication.

c) As to claim 3, Silberstein discloses patients undertakes the cognitive activation task (col. 5, lines 31-32), and collects the data for further analysis. However Silberstein does not explicitly disclose scoring the test subject's responses to cognitive function questions.

The examiner takes official notice that use of scoring the test subject's responses to cognitive function questions is quite well-known in surveys and clinical studies.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of scoring the test subject's responses to cognitive function questions in processing test response data in the system of Silberstein so as to provide an effective look at the collected data.

d) As to claims 6 and 12, Silberstein discloses making the encrypted test result data available to a user includes writing the encrypted test result data to a non-volatile memory media (col. 8, lines 32-34).

e) As to claims 7 and 13, Silberstein discloses transmitting the encrypted result data out of the computer device over a network to a receiving computer device (col. 5, lines 33-35).

f) As to claims 9-10, Silberstein discloses a memory storage device comprising computer readable program elements for implementing the method of claim 1 and a computer device comprising a test program for performing the method of claim 1 (col. 6, lines 8-14).

g) As to claim 15, Silberstein discloses generating a test result file based on the raw data includes processing the raw data into a predefined test result format (col. 6, lines 21-25).

h) As to claim 18, Silberstein discloses a method for evaluating the efficacy of therapeutic intervention in a patient by assessment of different steady state visually evoked potentials (col. 1, lines 7-9) comprising at the one or more remote locations, presenting a test to at least one test subject through a computer device (col. 1, line 36, lines 45-46); receiving from the at least one test subject data in response to the presented test and inputting said data into the computer device (col. 1, lines 48-50); generating an encrypted test result file for the at least one test subject based on its inputted data (col. 5, lines 33-34) and transferring the encrypted test result files for the at least one test subject from the one or more remote sites to a common database (col. 5, line 35).

Silberstein does not explicitly disclose the received data that is not encrypted is not available outside of the computer device and to a user of the computer device.

However, he discloses security issues of reducing the risks of malicious hacking in test data (col. 8, lines 29-31) and encrypting test data (addressed above).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of disallowing unencrypted data available outside of the computer device in the system of Silberstein so as to better protect and strengthen security of information data.

i) As to claim 20, Silberstein discloses security issues of reducing the risks of malicious hacking in test data (col. 8, lines 29-31) and encrypting test data (addressed above).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of decrypting the encrypted test result files from the common database at a secure location in order to analyze the result files in the system of Silberstein so as to protect test subject's personal private information.

6. Claims 4-5 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silberstein (6,856,913) in view of Sims, III (6,550,011).

a) As to claims 4 and 16, Silberstein does not disclose organizing unencrypted raw response and result data into an inaccessible format.

Sims discloses a system and method for providing protection of transmitted content comprising storing the data into secure storage areas in compliant storage devices and/or storage use devices (col. 11, lines 20-23; lines 33-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of storing data into secure storage areas in compliant storage devices and/or storage use devices (i.e. organizing unencrypted data into an inaccessible format) in the system of Silberstein as Sims discloses so as to securely protect data.

b) As to claims 5 and 17, Silberstein does not disclose organizing unencrypted raw response and result data into an inaccessible format includes deleting it from a working memory if it is no longer required for generating the encrypted test result data.

The examiner takes official notice that use of deleting unencrypted data from a working memory if it is no longer required for generating the encrypted data is quite well-known in data communications.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of deleting unencrypted data from a working memory if it is no longer required for generating the encrypted data in the system of Silberstein so as to free up processor's memory.

7. Claims 8, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silberstein (6,856,913) in view of Lipman (2002/0052562).

Silberstein does not disclose receiving from the test subject raw test response data includes receiving the raw test response data through a test administrator and



inputting the data into the computer device includes inputting at least part of the data through a test administrator.

Lipman discloses a system, device and method for simultaneous assessment of a subject's pain states comprising receiving from the test subject raw test response data includes receiving the raw test response data through a test administrator and inputting the data into the computer device includes inputting at least part of the data through a test administrator (page 9, paragraph [0090]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of receiving from the test subject raw test response data includes receiving the raw test response data through a test administrator and inputting the data into the computer device includes inputting at least part of the data through a test administrator in the system of Silberstein so as to provide an in-person assistant with the monitoring process.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
mdn  
4/18/06

  
**EMMANUEL L. MOISE**  
**SUPERVISORY PATENT EXAMINER**